

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

MIDSIZE CARRIER COALITION

CENTURYTEL, INC.
CONSOLIDATED COMMUNICATIONS HOLDINGS, INC.
FAIRPOINT COMMUNICATIONS, INC.
IOWA TELECOMMUNICATIONS SERVICES, INC.,
TDS TELECOMMUNICATIONS CORP. AND
VALOR TELECOMMUNICATIONS OF TEXAS, L.P.

**Proposed Rules For Proper Identification and Routing of
Telecommunications Traffic**

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Attachment A – Proposed Rules

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In the Matter of)	
)	
Developing a Unified Inter-carrier)	
Compensation Regime)	CC Docket No. 01-92
)	
Proper Routing and Compensation for)	
Termination of Telecommunications Traffic)	

Proposed Rules for Proper Identification and Routing of Telecommunications Traffic

CenturyTel, Inc., Consolidated Communications Holdings, Inc., FairPoint Communications, Inc., Iowa Telecommunications Services, Inc., TDS Telecommunications Corp. and Valor Telecommunications of Texas, L.P. (together, the “Midsize Carrier Coalition”), through counsel, hereby submit to the Federal Communication Commission (the “Commission”) their proposed rules for the regulation and elimination of “phantom traffic.” For the reasons set forth herein, and in its previous filings in this docket, the Midsize Carrier Coalition respectfully requests that the Commission expeditiously adopt the rules set forth in Attachment A hereto.

I. BACKGROUND INFORMATION AND SUMMARY

Phantom traffic is one of the most significant and fastest growing problems facing the telecommunications industry today. “Phantom traffic” is telecommunications traffic that cannot properly be billed because it is mislabeled, unlabeled or improperly routed with the result that the originating or transiting¹ carrier is unknown or the proper jurisdictional nature of the traffic (*i.e.*, interstate access, intrastate access, or local traffic) cannot be identified. The traffic may be purposefully mislabeled, insufficiently labeled because of imprecise rules or

¹ As used herein, the term “transiting carrier” means an entity in the call path that is neither the originating carrier nor the terminating carrier, but could be an interexchange carrier, a tandem-switching provider, or another intermediary carrier.

inadvertently mislabeled. The intentional creation and routing of phantom traffic is a form of theft or fraud, whereby some carriers help themselves to capacity on other carriers' networks without compensation. Most often it is the terminating carrier that is not properly compensated, but transiting carriers also are being harmed by phantom traffic. Phantom traffic accounts for as much as 20 percent of some terminating carriers' minutes, and this percentage appears to be growing.² Such traffic purportedly results in billions of dollars of lost revenues and detection costs and is an unlawful mechanism for shifting revenue to carriers that propagate phantom traffic. Carriers that have a legal obligation to terminate or transit such traffic face an ever-increasing array of compensation-avoidance techniques used by other carriers, requiring increasingly sophisticated detection methods. The record in this proceeding establishes a clear need for effective rules to help carriers identify and address phantom traffic.

Members of the Midsize Carrier Coalition are midsized providers of voice and data telecommunications services to rural, suburban and small urban communities throughout the United States. They are experiencing phantom traffic in its many forms and the burdens that phantom traffic imposes on their networks on a daily basis. Together, they have drafted a simple set of rules that will help identify and address phantom traffic in a non-invasive way and at minimal cost. These rules would require all service providers in a call path to (1) create and faithfully transmit accurate call identification information, (2) cooperate with one another to obtain accurate and complete call records, and (3) consult with and follow the Local Exchange Routing Guide ("LERG") to ensure proper routing. The Midsize Carrier Coalition also

² See Letter from Balhoff & Rowe, LLC, to Marlene H. Dortch, Secretary, FCC, Network Investment and Policy for Rural America, 4 (dated Oct. 18, 2005); Letter from Donna Epps, Verizon, to Marlene H. Dortch, Secretary, FCC, "Phantom Traffic" Solutions, 15 (dated Nov. 10, 2005) ("Approximately 20 percent of all traffic that's delivered to Verizon's network lacks a valid CPN/CN").

recommends an expedited complaint procedure for investigation and enforcement. These rules should apply not only to entities that meet the definition of telecommunications carrier under the Act, but also to other entities that perform similar functions and use telephone numbers as carriers do, even if they are not classified as telecommunications carriers under the Act.

The Commission can and should implement these rules immediately. The Commission has jurisdiction over the creation and transmission of call record information and phantom traffic, whether interstate, intrastate or local in origin. As a matter of law and public policy the Commission should hear complaints regarding phantom traffic and put a stop to unlawful and deleterious practices that undermine appropriate compensation for payment for use of network assets. Given the comprehensive record in this docket, the Commission does not need to solicit further public comment on this issue. Therefore, the Commission should act immediately to adopt the rules proposed here by the Midsize Carrier Coalition.

II. PROPOSED RULES

The Midsize Carrier Coalition proposes the following simple and non-controversial measures for ensuring the accurate identification of all telecommunications traffic.

- **Obligations of originating carriers.** All originating carriers in a call path must pass accurate call origination information, without alteration or deletion.³ This should clearly and accurately identify the calling party (*i.e.*, the calling party number) or billed party (*i.e.*, the charge number), and the first point of switching of the call (*i.e.*, jurisdictional

³ See Alliance for Telecommunications Industry Solutions, Ordering and Billing Forum, Recording and Signaling Changes Required to Support Billing, Issue 2308 (distributed 3/14/02) (“[T]he NIIF strongly recommends that the JIP be populated on all calls where technologically possible”) (“ATIS OBF Issue 2308”).

information parameter).⁴ Such information is indispensable for proper billing by terminating carriers.

For purposes of these rules, any entity that obtains telephone numbers for assignment to its customers should be deemed a “telecommunications carrier.” While current Commission rules require certain carriers to transmit the calling party number associated with an interstate call, this requirement is insufficient to ensure transmission of the requisite information for proper billing (*e.g.*, it does not currently apply to local or intrastate transmissions, nor to all traffic regardless of signaling type).⁵

- **Obligations of transiting carriers.** Where only two carriers are involved in call transmission, phantom traffic is not usually a problem – each one knows the other, and an agreement or a tariff specifies the proper rate for the traffic.⁶ When more than two carriers are in the call path, however, the opportunities for phantom traffic multiply. To ensure accurate transmission of call record information, the Commission must require intermediate carriers in particular to forward all call origination information received in the signaling for such traffic without modification or deletion.⁷ Further, all intermediate carriers that transmit traffic to terminating carriers must provide industry standard call

⁴ See Attachment A, §§ 51.900, 51.902(a). See also ATIS OBF Issue 2308 (“If the JIP cannot be populated at the state and LATA level, the JIP should be populated with an NPA-NXX specific to the originating switch or MSC where it is technically feasible.”).

⁵ 47 C.F.R. § 64.1601(a) (“common carriers using Signaling System 7 and offering or subscribing to any service based on Signaling System 7 functionality are required to transmit the calling party number (CPN) associated with an interstate call to interconnecting carriers”).

⁶ The carriers may disagree in whether a call is “local” or “interexchange” (*e.g.*, LEC-CMRS traffic) but this proposal does not purport to resolve such debates.

⁷ See Attachment A, § 51.902(b). Where it is not possible to transmit those fields because of in-band signaling, automatic number identification should be provided instead. See *id.* §51.902(c).

records, including information identifying the carrier from which they received the traffic (*i.e.*, the operating carrier number or the carrier identification code).⁸ Only by imposing such a duty can the Commission ensure that properly labeled traffic is not transformed into phantom traffic mid-stream. The use of multi-frequency interworking (“MFI”) trunks within a transiting carrier’s network, while not prohibited, should not excuse the obligation to pass accurate and complete information necessary for proper billing.⁹

- **Routing obligations.** In addition, all carriers should be responsible for properly routing telecommunications traffic. Generally speaking, carriers deploy network infrastructure years ahead of demand and such infrastructure often comes with built-in technical limitations, such as the inability to track call record information for traffic routed over local trunks. Improperly routed traffic strains network resources earmarked for other purposes and may cause the application of incorrect intercarrier compensation rates (*e.g.*, interexchange traffic improperly routed over local exchange trunks may be billed at lower reciprocal compensation rates in lieu of tariffed access rates). For these reasons, the Commission should require all telecommunications providers to consult and follow the Local Exchange Routing Guide when establishing traffic routing arrangements to make certain that traffic is properly routed according to the applicable jurisdictional parameters.¹⁰

⁸ See Alliance for Telecommunications Industry Solutions, Ordering and Billing Forum, Routing Determination on EMI Records, Issue 2309 (distributed 8/30/02) (addressing the population of operating carrier number or carrier identification code in exchange message interface system records).

⁹ *Id.* at § 51.902(c) (allowing carrier employing such technology to transmit automatic number identification (“ANI”) information instead of the call record information identified in § 51.902(a)).

¹⁰ *Id.* at § 51.903.

- **Enforcement provisions.** Of course, there must be some mechanism to investigate and enforce these measures, and the attached proposed rules include a reasonable complaint procedure for doing so. In accordance with this procedure, carriers could file informal complaints alleging non-compliance with the requirements discussed herein, supported with specific facts or documentation.¹¹ The Commission would then investigate and issue an order on an expedited basis either granting appropriate relief (*e.g.*, monetary damages and/or the right to back bill for compensation) or dismissing the complaint. Complainants not satisfied with the outcome of an informal complaint proceeding after 90 days would have the option of filing a formal complaint. The foregoing measures – based in large measure on the expedited procedure for “slamming” complaints¹² – are straightforward, just and reasonable and they should be acceptable to any carrier determined to solve the phantom traffic problem.

The Midsize Carrier Coalition recognizes that there are some forms of phantom traffic that these rules may not address, such as traffic sent by aggregators, and entities providing long-distance transport using Internet protocol (“IP”)-based, “least cost routing” technology (where the IP-based entity is neither a carrier nor has any telephone numbers). Similarly, such rules may not cover the provision of outbound-only Voice over IP (“VOIP”) services where originating callers do not have telephone numbers and service providers may not be “telecommunications carriers.” The Midsize Carrier Coalition nevertheless believes that these rules would help capture a substantial amount of phantom traffic, and they would ensure that carriers are properly compensated for terminating that traffic without creating unreasonable

¹¹ *Id.* at § 1.740.

¹² 47 C.F.R. §1.719.

burdens on carriers or consumers.

III. THE COMMISSION CAN AND SHOULD ADOPT THE PROPOSED RULES WITHOUT DELAY

A. The Commission Has Jurisdiction Over the Provision of Call Origination Information Between Entities that Directly or Indirectly Interconnect and Exchange Traffic

The transmission of accurate and complete call record information is subject to the Commission's plenary and ancillary jurisdiction. The Commission already has found that it has plenary jurisdiction over "telephone numbers" for both interstate and intrastate traffic.¹³ The Commission has made clear that "telephone numbers" include not only numbering plan area codes, central office codes and station or line numbers but also "other numbers and codes necessary for effective and efficient telecommunications," such as carrier identification codes, available service codes and vertical service codes.¹⁴ The privilege of obtaining telephone numbers from the North American Numbering Plan or Pooling Administrator, which previously had been reserved to telecommunications carriers under the Act, recently was extended by the Commission to entities who are not telecommunications carriers but wish to offer VOIP services and assign telephone numbers to their customers, anticipating that this will help stimulate the offering of VOIP services.¹⁵ The rise of phantom traffic makes plain that effective and efficient exchange of traffic also requires the faithful provision of operating carrier number, calling party number and/or charge number, and jurisdictional information parameter.

¹³ *Administration of the North American Numbering Plan*, Notice of Proposed Rulemaking, FCC 94-79, ¶ 8 (rel. Apr. 4, 1994).

¹⁴ *See id.* at note 10.

¹⁵ *Administration of the North American Numbering Plan*, Order, CC Docket 99-200, FCC 05-20 (rel. Feb. 1, 2005) (granting SBC IP Communications, Inc. a waiver of the rules to obtain numbering resources directly from the North America Numbering Plan Administrator or the Pooling Administrator for use in its provision of VOIP services, and finding that this grant will expedite the deployment of advanced services).

The Commission's jurisdiction over the provision of call record information extends to all forms of telecommunications traffic. The Communications Act of 1934, as amended (the "Act"), expressly gives the Commission jurisdiction over interstate and international traffic, and Commission rules already apply to interstate access charges.¹⁶ The Act also confers on the Commission jurisdiction over interconnection and reciprocal compensation between carriers exchanging local traffic, and the Supreme Court has affirmed such jurisdiction.¹⁷ Even as to intrastate interexchange traffic, the Commission may exercise jurisdiction over the transmission of call origination information necessary for the proper identification and billing of such traffic, pursuant to its plenary jurisdiction over numbers and interconnection, as well as its ancillary jurisdiction under the Act.

The Act grants the Commission broad ancillary jurisdiction over matters necessary to carry out the Commission's responsibilities under the provisions of the Act.¹⁸ The Supreme Court has concluded that this ancillary jurisdiction covers any matters to which the Act "applies;" likewise, lower courts have held that such jurisdiction covers matters "reasonably ancillary to the effective performance of the Commission's various responsibilities."¹⁹ In

¹⁶ See 47 U.S.C. § 151 (the Commission was created "[f]or the purpose of regulating interstate and force commerce in communication by wire and radio..."); 47 C.F.R. 69.5(b) (imposing access charges on all interexchange carriers using local exchange facilities in the transmission of interstate or foreign telecommunications services).

¹⁷ 47 U.S.C. §§ 251(a), 251(b)(5); *AT&T Corporation, et al. v. Iowa Utilities Board, et al.*, 525 U.S. 366, 367-368 (1999) (upholding the Commission's rules governing local competition and reciprocal compensation under Sections 251 and 252 of the Act).

¹⁸ 47 C.F.R. §§ 154(d) ("The Commission may perform any and all acts...as may be necessary in the execution of its functions") and 201(b) ("The Commission may prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions of this chapter.").

¹⁹ *AT&T Corporation*, 525 U.S. at 380 (addressing ancillary jurisdiction under Section 201(b) of the Act); *American Library Association, et al. v. Federal Communication Commission*,

particular, Section 251(a) of the Act establishes the duty of all carriers to interconnect directly or indirectly with one another and Section 251(e) expressly vests the Commission with jurisdiction over numbering resources in the United States.²⁰ Intrastate interexchange carriers are subject to Section 251(a) and their telephone numbering resources, including information “necessary for effective and efficient telecommunications,” are subject to these rules. The transmission of call origination information necessary for the proper routing and billing of telecommunications traffic, including intrastate interexchange traffic, therefore falls within the Commission’s jurisdiction.²¹

State action concerning phantom traffic has been helpful. The rules proposed here build in part on experience in the states. However, as a practical matter, phantom traffic cannot be sorted neatly into interstate, intrastate or local categories. By its very nature, phantom traffic has an unidentifiable source or uncertain jurisdictional status, because call origination information is missing or incorrect or because such traffic is routed in a way that disguises its origin. Improper routing also causes the jurisdictional nature of the traffic to blur, for instance, when interstate and intrastate access traffic is routed across local trunks. The Commission previously has found that such obstacles and intertwining of service types supports a finding of

406 F. 3d 689, 692-693 (2005) (quoting *United States v. Southwestern Cable Co.*, 392 U.S. 157, 178 (1968)) (addressing ancillary jurisdiction under Title I of the Act).

²⁰ 47 U.S.C. § 251(a) and (e).

²¹ Indeed, NARUC even filed a proposal that the FCC’s inter-carrier compensation rules include truth-in-labeling requirements permitting the blocking by terminating carriers of traffic not properly identified. Letter of Robert B. Nelson, Commissioner, Michigan Public Service Comm’n, Elliott G. Smith, Board Member, Iowa Public Util. Bd., and Ray Baum, Commissioner, Oregon Public Utility Comm’n, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92, Appendix C at 6 (filed May 18, 2005).

jurisdiction over both interstate and intrastate traffic.²² Such a finding would *not* commit the Commission to involvement in intrastate ratemaking or rate enforcement, but would permit FCC enforcement of a uniform national regime to ensure proper *identification* of traffic.

B. The Commission Should Rule Promptly on this Proposal

Immediate action by the Commission is necessary, and is justified under the Communications Act in the public interest. Section 201(b) of the Act prohibits carriers from engaging in unjust or unreasonable practices and Section 202(a) similarly prohibits carriers from subjecting any person to undue or unreasonable prejudice or disadvantage.²³ Transmission of phantom traffic violates these provisions as well as established industry standards designed to ensure orderly use of finite network facilities.²⁴ Carriers that intentionally transmit phantom traffic defraud terminating and transiting carriers out of potentially billions of dollars and strain network resources, ultimately harming consumers. The Commission has a duty to hear phantom traffic complaints and investigate allegations of wrongdoing.²⁵

Phantom traffic complaints are more than mere “collection actions” to be referred to federal district courts. Despite a recent tendency to direct carrier disputes over non-payment of federally authorized charges to the courts, the Commission previously entertained such

²² See, e.g., *The Need to Promote Competition and Efficient Use of Spectrum for Radio Common Carrier Services*, Declaratory Ruling, 2 FCC Rcd 2910, ¶ 19 (rel. May 18, 1987), *affirmed*, 4 FCC Rcd 2369, ¶ 8 (rel. Mar. 15, 1989) (holding that the Commission has plenary jurisdiction over the allocation of NXX codes, in part because “[i]t may be not only infeasible but impossible as a matter of engineering to separate one set of NXX codes for intrastate calls and one set for interstate calls”).

²³ 47 U.S.C. §§ 201(b), 202(a).

²⁴ See also 47 C.F.R. § 64.1601(a) (requiring transmission of the CPN under certain conditions).

²⁵ 47 U.S.C. § 207.

complaints, including complaints alleging violations of Sections 201, 202 and 251 of the Act.²⁶

A number of district courts have refused to resolve disputes related to the non-payment of federally authorized charges, deferring to the Commission's judgment.²⁷ Because phantom traffic complaints involve a legal question about the proper classification of traffic based, in part, on its origin, the FCC is best suited to investigate such claims and make the initial determination whether the traffic is properly identified and whether adequate records are being provided. Only when the Commission resolves this question – using the rules proposed here – will carriers be able to resolve the remaining questions concerning the proper rate to be applied and the proper carrier to be billed (which this proposal does not purport to resolve).

Public policy and practical considerations heavily favor an exercise of jurisdiction and immediate resolution of the phantom traffic issue. The Commission has a unique expertise to which the courts have and likely will defer. Likewise, only through the Commission will there be a uniform set of rules regarding the transmission of call record information and phantom traffic. If the Commission defers to the courts, and the courts, without clear guidance, defer to the Commission, carriers will not have an effective means of redress – they will ping-pong back

²⁶ See, e.g., *Core Communications, Inc. v. Verizon Maryland, Inc.*, Memorandum Opinion & Order, File No. EB-01-MD-007, 18 FCC Rcd 7962 (2003) (finding jurisdiction over complaint by CLEC under Section 251(c)(2) of the Act); *TSR Wireless, LLC v. U S West Communications, Inc.*, Memorandum Opinion & Order, File Nos. E-98-13 *et al.*, 15 FCC Rcd 11166 (2000) (addressing complaints that LEC access charges violated Sections 201(b) and 251(b)(5) of the Act); *MGC Comm. Inc. v. AT&T*, 15 FCC Rcd 308 (1999) (deciding claim for recovery of damages when AT&T failed to pay tariffed access charges). See also *AT&T Corporation*, 525 U.S. at 384-386 (finding the FCC has authority to promulgate rules implementing Sections 251 and 252, and reversing as unripe the 8th Circuit determination that FCC lacks authority to enforce Sections 251 and 252 through Section 208 complaints).

²⁷ See *Southwestern Bell Tel., L.P. v. VarTec Telecom, Inc.*, No. 4:04-CV-1303, 2005 WL 2033416, 3-4 (E.D. Mo. Aug. 23, 2005) (deferring to the Commission's primary jurisdiction with respect to the applicability of access charges to "IP-in-the-middle" traffic, based on the Commission's technical expertise and a policy favoring Commission resolution where there is "a risk of inconsistent results among courts and with the Commission").

and forth between the Commission and the courts. Moreover, the telecommunications industry cannot solve the phantom traffic problem alone, since the providers that cause the problem are difficult to identify and such entities have no incentive to change their behavior. In the meantime, without resolution, phantom traffic continues to cause billions of dollars of damage each year, to strain network resources and to upset investment-backed expectations.

This matter is ripe for resolution by the Commission, and prompt action is in the public interest. Various phantom traffic proposals have been suggested over the years in this docket, and the Commission has asked for comment on the need for rules to address this issue.²⁸ This has stimulated a considerable amount of comment on phantom traffic and “truth in labeling” as well as further proposals and refinements of proposals from a number of parties participating in this docket.²⁹ The Commission thus already has necessary and sufficient input from the

²⁸ See *Developing a Unified Intercarrier Compensation Regime*, Further Notice of Proposed Rulemaking, FCC 05-33, ¶ 45 (rel. Mar. 3, 2005) (seeking comment on, among other proposals, the Expanded Portland Group (“EPG”) proposal, which addresses phantom traffic); *id.* ¶ 133 (“Specifically, we request comment about whether to impose an obligation on the transiting carrier to provide information necessary to bill, including both the identity of the originating carrier, and the nature of the traffic.”).

²⁹ See, e.g., Comments filed May 23, 2005 in CC Docket 01-92 of Alexicon Telecommunications Consulting at 6-7; CenturyTel, Inc. at 5-7; GVNW Consulting Inc. at 27; Interstate Telcom Consulting, Inc. at 15, 18; Mid America Computer Corporation at 2; National Telecommunications Cooperative Association at 51-54; North Dakota Public Service Commission at 3; TDS at 10-12.

See also Letter of Donna Epps, Verizon, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92 (filed Nov. 10, 2005) (urging amendment of FCC rules to prohibit intentional mislabeling and misrouting of traffic); Letter of Robert C. Rowe, Balhoff & Rowe, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket Nos. 01-92 and 96-45 (filed October 18, 2005) (urging prompt Commission action on phantom traffic); Reply Comments of Balhoff & Rowe, LLC, CC Docket No. 01-92 (filed July 20, 2005) (describing the work already done by industry through such groups as the Alliance for Telecommunications Industry Solutions, and the urgent need for FCC rules addressing phantom traffic); Reply Comments of CenturyTel, Inc. in CC Docket No. 01-92 at 3-7 (filed July 20, 2005) (noting growing

public. The Midsize Carrier Coalition urges the Commission to act.

consensus within the industry that phantom traffic must be solved for any inter-carrier compensation regime to work); Letter of Karen Brinkmann, Latham & Watkins LLP, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92 (filed July 1, 2005) (describing the problem of phantom traffic and urging FCC action); Letter of Robert B. Nelson, Commissioner, Michigan Public Service Comm'n, Elliott G. Smith, Board Member, Iowa Public Util. Bd., and Ray Baum, Commissioner, Oregon Public Utility Comm'n, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92, Appendix C at 6 (filed May 18, 2005) (arguing that terminating carriers should be permitted to block traffic not accompanied by proper call records); Letter of Karen Brinkmann to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92 (filed Dec. 17, 2004) (urging adoption of "truth in labeling" rules to curb phantom traffic).

Some of the earliest proposals submitted in this proceeding were those of the EPG and ARIC, both coalitions formed to resolve a broad range of inter-carrier compensation issues, and both of which identified phantom traffic or "truth in labeling" as a serious impediment. *See* Expanded Portland Group Comprehensive Plan for Intercarrier Compensation Reform, attached to Letter from Glenn H. Brown to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92 (filed Nov. 2, 2004) at 15-18 (truth-in-labeling rules are needed to ensure terminating carriers can bill proper party for traffic originating on another network); Alliance for Rational Intercarrier Compensation (ARIC) – Fair Affordable Comprehensive Telecommunications Solution (FACTS) at 55, attached to Letter from Wendy Thompson Fast, President, Consolidated Companies and Ken Pfister, Great Plains Communications to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket Nos. 01-92, 96-45, 04-36, 99-68, and 96-98 (filed October 25, 2004) (proposing a system in which "the tandem operator then would be in a position to cease switching and routing of this traffic if the abusing carrier does not rectify the situation").

IV. CONCLUSION

As demonstrated by the Midsize Carrier Coalition, phantom traffic is an enormous and growing problem that is well within the Commission's ability to resolve. The Midsize Carrier Coalition is proposing a simple and non-controversial set of rules governing the transmission of call origination information and the proper routing of traffic to terminating carriers that will help curtail phantom traffic. For the foregoing reasons, the Midsize Carrier Coalition respectfully requests that the Commission expeditiously implement the rules set forth in Attachment A hereto.

Respectfully submitted,

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Attachment A

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 C.F.R. parts 1 and 51 as follows:

PART 1 – PRACTICE AND PROCEDURE

1. New Section 1.740 is added to read as follows:

§ 1.740 Complaints filed pursuant to §§ 51.902-903.

Notwithstanding the requirements of §§1.716-718, the following procedures shall apply to informal complaints alleging that a carrier has violated §§201 and 251 of the Act by failing properly to identify and route telecommunications traffic as required in §§51.902-903 of this chapter.

- (a) Form of Complaint. The complaint shall be in writing, and should contain: The complainant's name, address, telephone number, e-mail address, and designated agent under §1.47(h); a complete statement of the facts, including any documentation tending to show that the complainant received for termination telecommunications traffic not in compliance with any of the provisions of §§51.902-903; the names of any telecommunications providers known to be in the call path, whether as the originating carrier or as transiting carriers; a statement as to whether the complainant has sought and received or been denied the identifying information required in §51.902 or whether traffic has been improperly routed in violation of §51.903; and the specific relief sought.
- (b) Procedure. Upon receiving an informal complaint pursuant to this section, the Commission will investigate the complaint, including by requiring the submission of information the Commission deems relevant by all telecommunications providers having such information. The Commission will complete its investigation and issue an order informing the complainant of its findings within 90 days of the date the complaint is filed, and order such remedy as may be appropriate, which may include ordering damages pursuant to Section 209, imposition of a forfeiture pursuant to Section 501, or permitting the terminating carrier that receives telecommunications traffic not accompanied by the information required in §51.902 to bill the carrier that delivered that traffic to the terminating carrier the charges that would have applied if the Commission finds that such carrier's failure to provide such information caused or contributed to the terminating carrier's inability to bill the proper carrier in accordance with the terms of the applicable tariff, traffic exchange agreement or interconnection agreement.
- (c) Unsatisfied informal complaints. In the event the complainant is not satisfied with the resolution of a complaint under this section within the 90-day period described in subsection (b), the complainant may file a formal complaint with the Commission in the form specified in §1.72. Such filing will be deemed to relate back to the filing date of the

informal complaint filed under this section, so long as the informal complaint complied with the requirements of paragraph (a) of this section and provided that: The formal complaint makes reference to both the informal complaint number assigned to and the initial date of filing the informal complaint filed under this section; is based on the same cause of action as the informal complaint filed under this section; and is filed within 45 days from the earlier of (i) the date an order resolving the informal complaint filed under this section is mailed or delivered electronically to the complainant and (ii) the date on which the 90-day period described in subsection (b) expired. If no formal complaint is filed within the 45-day period, the complainant will be deemed to have abandoned its right to bring a formal complaint regarding the cause of action at issue.

PART 51 - INTERCONNECTION

2. New *Subpart J – Identification of Telecommunications Traffic* is added to read as follows:

Subpart J – Identification of Telecommunications Traffic

§ 51.900 Scope of Rules in This Subpart

This subpart applies to all telecommunications traffic between two or more telecommunications carriers, including all telecommunications traffic identified in §§ 51.701(b)(1) and (2), all exchange access traffic, all information access traffic, and all other traffic transmitted by telecommunications carriers as defined herein.

§ 51.901 Terms and Definitions Used in This Subpart.

- (a) *Calling Party Number (CPN)*. A call data field within the initial address message in the signaling, for example on a Signaling System 7 network, indicating the subscriber line number or directory number of the party originating the call.
- (b) *Carrier Identification Code (CIC)*. A field in EMI records indicating the identity of the interexchange carrier that routed an interexchange call.
- (c) *Charge Number (CN)*. The number associated with the party to whom a call is charged or billed. The CN field is a call data field within the initial address message in the signaling, for example on a Signaling System 7 network, that is populated if the CPN is not the “billed to” number.
- (d) *Exchange Message Interface System (EMI)*. The industry standard for exchanging telecommunications message information for billable, non-billable, settlement and study records.
- (e) *Intermediate carrier*. As used in this subpart, any carrier in the call path that is neither the originating carrier nor the terminating carrier. Intermediate carriers include, but are not limited to, interexchange carriers, transiting carriers, and tandem switching carriers.
- (f) *Jurisdictional Information Parameter (JIP)*. A call data field within the initial address message in the signaling, for example on a Signaling System 7 network, indicating the originating switch.

- (g) *Operating Carrier Number (OCN)*. A field in EMI records indicating the identity of the originating carrier, except where a CIC is provided.
- (h) *Telecommunications carrier or carrier*. As used in this subpart, any entity that is a telecommunications carrier as defined in §51.5, and any other entity that assigns to customers telephone numbers obtained either directly or indirectly from the North American Numbering Plan Administrator or the Pooling Administrator.

§ 51.902 Obligation to Accurately Identify Telecommunications Traffic.

- (a) It shall be the duty of any originating carrier when transmitting traffic to another telecommunications carrier to ensure that the initial address message in the call signaling includes the JIP and either or both of the CPN or CN.
- (b) It shall be the duty of any intermediate carrier when transmitting telecommunications traffic to another carrier to transmit to such carrier without modification or deletion the JIP, CPN and CN information received from the previous carrier in the call path.
- (c) If any carrier is unable to transmit CPN or JIP in accordance with this section because it employs a multi-frequency interworking trunk to transmit telecommunications traffic between networks, it shall be the duty of such carrier to transmit automatic number identification (ANI) information with such traffic.
- (d) It shall be the duty of any intermediate carrier that performs a tandem-switching or transiting function, when transmitting telecommunications traffic to a terminating carrier, to provide EMI records indicating the carrier from which the traffic was received, unless the terminating carrier agrees in writing that such records need not be provided.

§ 51.903 Consultation with the Local Exchange Routing Guide.

It shall be the duty of all telecommunications carriers before routing traffic to another carrier to consult the Local Exchange Routing Guide (LERG), and to route the traffic to the trunk group designated for such traffic according to its jurisdictional nature, unless the terminating carrier has approved in writing alternate routing arrangements.